

Transboundary Management Guidance Committee (TMGC)
Minutes from March 12, 2009 Meeting
Bangor, Maine

This document is a consensus summary of the principal discussions and conclusions from the meeting, organized according to subject, and is not intended to be a chronological transcript of the meeting. This document was reviewed by TMGC members and alternates, and posted on the internet upon agreement by the Co-Chairs.

Attendees:

Co - chairs: Michael O'Connor - Canada, and George Lapointe - U.S.

Canada Industry: Claude D'Entremont

U.S. Industry: John Pappalardo, Jim Odlin, David Prebble

Canada Science (DFO): Stratis Gavaris, Lou Van Eeckhaute

U.S. Science (NMFS): Fred Serchuk, Loretta O'Brian

Canada Management (DFO): Jorgen Hansen, Verna Docherty, Gus vanHelvoort

U.S. Management (NMFS): George Darcy, Douglas Potts

U.S. - New England Fishery Management Council Staff (NEFMC): Tom Nies, Anne Hawkins

Problem Statement:

The USA Magnuson-Stevens Act (MSA) requires that each Regional Fishery Management Council establish a scientific and statistical committee (SSC) and that this committee provide the Council advice for fishery management decisions including recommendations for acceptable biological catch (ABC). The MSA further requires that the Council not exceed the fishing level recommendations of the SSC when establishing annual catch limits (ACL). SSC recommendation of ABC may constrain the Council's ability to adopt TMGC guidance. In addition, the MSA mandates rebuilding targets and timelines for stocks considered overfished. The MSA created 10 National Standards (NS) for fishery conservation and management. Judicial review of previous management actions have determined that NS 1, to eliminate over fishing, takes precedence over the others including NS 8, which requires minimizing adverse economic impacts. This legal requirement could limit latitude for negotiation. There is concern by parties on both sides that these mandates may impose constraints on the functioning of TMGC that could create an impasse in efforts to negotiate mutually agreeable harvest levels on the transboundary groundfish stocks.

In Canada, a new Sustainable Fisheries Framework is being implemented that may impact on the ability of the TMGC to function successfully in the future. It incorporates existing policies for fisheries management conservation and sustainable use, governance, and economics with new and evolving policies using a phased-in approach. It also includes tools to monitor and assess results of conservation and sustainable use in order to identify areas that may need improvement. Implementation of the Framework will be accompanied by new policies, including a new National Policy to implement the Precautionary Approach. The Policy will establish zones (healthy, cautious and critical) and will set out decision rules to follow when stocks fall within the critical or cautious zones.

Discussion Summary:

Information was provided on issues that may be encountered from both countries' policies and/or legislation. It was recognized that the new policies in Canada would more easily accommodate the Canada/U.S. Understanding. Therefore, the discussion focused on the immediate constraints imposed by the MSA.

Members from both countries are concerned with the potential for inconsistent advice/guidance for harvest levels being provided by two distinct bodies (SSC and TMGC) that do not interact. The TMGC is an annual process which is more flexible than the multi-year rebuilding strategies and long rebuilding timelines under the MSA. The outcomes of the TMGC process take into consideration both Canadian and U.S. perspectives.

Current interpretation of the MSA requirements imply redundancy of TMGC if the harvesting strategies and allowable catch levels for Georges Bank cod, haddock and yellowtail were to be established by the USA without considering Canadian perspectives. If the two bodies (SSC and TMGC) attempt to function in parallel, there is the likelihood that they will provide divergent advice, even if both are using the same initial data. TMGC considered that the Canada/U.S. Understanding could not function effectively if an independent, parallel U.S. domestic management process operates for transboundary stocks.

Options:

TMGC identified two options to alleviate concerns with the MSA requirements:

- Pursue a Bill to amend the MSA to exclude Eastern Georges Bank cod and haddock and Georges Bank yellowtail flounder from pertinent aspects of MSA. At the request of a member of Congress, amending language has been drafted but the current status of this process is unknown.
- Pursue having the existing Canada/U.S. Understanding recognized as a formal international agreement. A formal agreement would require ratification by both governments.

It was thought that the first option would be faster to implement. Consideration should be given to accommodation of additional transboundary stocks in future. Unless there is indication of positive developments in either of these options, continuation of the TMGC process is not assured.

The TMGC further discussed strategies to bridge the gap between the current situation and being able to implement one of the viable options. However no practical options could be identified.